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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,148	07/09/2003	Gennosuke Mutoh	2271/69807	9758

7590 11/30/2007
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New York, NY 10036

EXAMINER

BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2628

MAIL DATE	DELIVERY MODE
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11/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/616,148	MUTOH, GENNOSUKE	
	Examiner	Art Unit	
	Jeffery A. Brier	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-19,21-38 and 40-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-19,21-38 and 40-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 10/10/2007 has been entered. The claim amendments overcome most of the 35 USC 112 first and second paragraph issues raised in the last office action mailed on 07/16/2007, however, the argued issue has not been overcome as well as the issue spanning pages 5 and 6 of the last office action mailed on 07/16/2007.

Response to Arguments

2. Applicant's arguments filed 10/10/2007 have been fully considered but they are not persuasive. The arguments on page 15 do not clarify the claims, thus, the indefinite rejection is maintained.

Applicant's arguments filed 10/10/2007 refers to the arguments filed on 5/29/2007 concerning Nakami have been fully considered but in view of 35 USC 112 second paragraph issues introduced by the 10/10/2007 and 5/29/2007 claim amendments a comparison of Nakami and the claimed invention is difficult.

Specification

3. The disclosure is objected to because of the following informalities: at page 56 line "magnetization" is present, however, this seems to be a typographical error. Appropriate correction is required.

Claim Objections

4. Claims 21-38 and 40-57 are objected to because of the following informalities: in claim 23 at lines 16-17 "in in an apparatus" redundantly has the word "in". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-19, 21-38, and 40-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 23:

Apparatus claim 4 and method claim 23 were amended to claim "print function", however, the specification does not define "print function" and the claims do not define "print function", thus, this aspect of the claim is unclear as to the metes and bounds of this claim limitation.

Apparatus claim 4 and method claim 23 suffer from the following same indefinite issue:

The specification describes a table is preferred to a calculation and the calculation is used to create the table, see page 42 lines 1-11 and page 50 lines 1-18. In apparatus claim 4 from lines 10-21 and in method claim 23 from lines 9-21 the claims do not clearly claim if the claimed invention is using the calculated table for changing

the size of image data of an original image, is only the creation of the table for use in changing the size of the image, or is only the calculation of the sharing ratio Z_m for use in changing the size of the image. These independent claims as well as their dependent claims do not clearly claim to use the sharing ratio to change the size of the original image in view of the "for changing the size of the image" at line 7 of both claims 4 and 23. In essence they only claim to calculate the sharing ratio.

In method claim 23 the body of the claim does not clearly claim how the function of the preamble is performed since the body of the claim does not claim how to change the size of the original image. The body of the claim only claims how to obtain the sharing ratio due to the vague language "for changing the size of the image data between a first processing way and a second processing way" at lines 7 and of claim 23.

In apparatus claim 4 the body of the claim does not clearly claim how the function of the preamble's image processing apparatus since the body of the claim does not claim how to change the size of the original image. The body of the claim only claims how to obtain the sharing ratio due to the vague language "for changing a size of image data between a first processing way and a second processing way" at lines 7 and 8 of claim 4.

7. A proper prior art analysis of the claims cannot be made because the metes and bounds of the claims are not definite and because the specification does not support the claims. Thus, a prior art rejection or an indication of allowability cannot be made with

the currently pending claims. In re Steele, 305 F.2d 859, 134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/616,148
Art Unit: 2628

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/
Primary Examiner, Division 2628